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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,563	11/10/2003	Susan Ann McConnell	11693.001	6915

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EXAMINER

REESE, DAVID C

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,563

Applicant(s)

MCCONNELL, SUSAN ANN

Examiner

David C. Reese

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

[1] Claims 1-14 are pending.

Drawings

[2] Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

[3] The disclosure is objected to because of the following informalities:

The abstract should remain free of technical terms such as "wherein", as the abstract should surmise the pertinent aspects of the invention while avoiding the use of claim terminology.

Appropriate correction is required.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 103

[4] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[5] Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godsey US-2002/0174681 in view of Kaping, Jr. US-6,026,659.

Godsey teaches of a body jewelry clasp.

However, Godsey fails to disclose expressly that the clasp is directly attached to a jewelry barbell stud.

Kaping, Jr. teaches of body jewelry device encompassing a jewelry barbell stud.

At the time of invention, it would have been obvious to one of ordinary skill in the art to modify the location of placement for the body jewelry clasp as taught by Godsey, to be attached to a body jewelry device as taught by Kaping Jr., in order to offer an alternative to attaching the jewelry clasp directly to the skin of a pierced area. The purpose of this particular body jewelry clasp, as stated by Godsey, is to provide an apparatus capable of securely interlocking an ornamental accessory such as hoops and wires to a pierced body position via the body jewelry clasp. It would be obvious for one, as a different embodiment, to attach the clasp directly to a body jewelry device such as a barbell stud instead of the piercing area alone, as the same result is obtained. That is, in this specific embodiment, the jewelry clasp is acting as a medium to attach various ornamental accessories to a barbell stud via itself instead of it being the direct jewelry attachment to the piercing area.

Thus, as for Claim 1, Godsey teaches of a body jewelry clasp comprising:

a loop (inside of 20 in Fig. 1 of Godsey) having an opening dimension larger than a section of said barbell and smaller than a diameter of said ball (dimensions of the loop, inside of 20 in Fig. 1 of Godsey, compared with the dimension of the section of the barbell as witnessed in Fig. 1 of Kaping, Jr.),

a recess (recess as shown by Godsey between 46 and 64 in Fig. 1)

The following is a statement of intended use as it does not further the limit the structure of the claimed invention.

“allowing said loop to be placed around said barbell section without removing said ball from said stud” , and

It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

a stop to maintain said loop around said barbell (20 in Fig. 1).

As for Claim 2, Re: Claim 1, Godsey teaches of a body jewelry clasp wherein the loop is formed by two arm portions (46 and 64 in Fig. 1 of Godsey) and wherein a space between end portions of the two arm portions form said recess (space between the two when they are not connected, as shown in Fig. 1 of Godsey).

As for Claim 3, Re: Claim 2, Godsey teaches of a body jewelry clasp wherein said arm portions can be separated to increase space between said end portions (46 can be separated from 64 via a hinge, 26 in Fig. 1 of Godsey).

As for Claim 4, Re: Claim 2, Godsey teaches of a body jewelry clasp wherein said arms are hinged together as a pivot (arm one, 40 is hinged to arm to 20 via a hinge, 26 in Fig. 1 of Godsey) that allows the arms to pivot (the movement of arm one, 40 relative to arm two, 20 in Fig. 1 of Godsey) between a first position where said recess is open (Fig. 1 of Godsey) and a second position where said recess is closed (Fig. 3 of Godsey).

As for Claim 5, Re: Claim 2, Godsey teaches of a body jewelry clasp wherein a hinged stop (26 in Fig. 1 of Godsey) depending from the end of one arm (end of arm two, 20 in Fig. 1 of Godsey) can pivot to open (Fig. 1) and close (Fig. 3) said recess (space between 46 and 64 in Fig. 1 of Godsey).

As for Claim 6, Re: Claim 2, Godsey teaches of a body jewelry clasp further including a stop member attachable to an end of said two arm portions (22 in Fig. 1 of Godsey, at the end of 20 and 40).

As for Claim 7, Godsey teaches of a body jewelry clasp comprising:
a first arm portion (40 in Fig. 1 of Godsey) having a first end (46) and a second arm portion (20) having a second end (64) spaced from said first end by a recess (space between 46 and 64), and
wherein said first and second arm portions form a loop adapted to fit around said stud (loop as represented inside 20 in Fig. 1 of Godsey).

As for Claim 8, Re: Claim 7, Godsey teaches of a body jewelry clasp wherein said arm portions can be separated to increase space between said end portions (due to the hinge 26, the space between 46 and 64 can be separated).

As for Claim 9, Re: Claim 7, Godsey teaches of a body jewelry clasp wherein said arms are hinged together as a pivot (arm one, 40 is hinged to arm two, 20 via a hinge, 26 in Fig. 1 of Godsey) that allows the arms to pivot (the movement of arm one, 40 relative to arm two, 20 in Fig. 1 of Godsey) between a first position where said recess is open (Fig. 1 of Godsey) and a second position where said recess is closed (Fig. 3 of Godsey).

As for Claim 10, Re: Claim 7, Godsey teaches of a body jewelry clasp further including a stop member attachable to an end of said two arm portions (22 in Fig. 1 of Godsey, at the end of 20 and 40).

As for Claim 11, Godsey teaches of a body jewelry clasp comprising:
a first arm portion (40) and a second arm portion (20) spaced from said first arm by a recess (space between 46 and 64),

wherein said first and second arm portions form a loop (inside of 20) adapted to fit around said stud, and

a stop portion (64) cooperating with at least one of said arms (40) to close said recess to retain said stud (Fig. 3 of Godsey).

As for Claim 12, Re: Claim 11, Godsey teaches of a body jewelry clasp wherein said arm portions can be separated to open said recess (40 separates itself from 20 in Fig. 1 opening recess as shown in Fig. 1 of Godsey).

As for Claim 13, Re: Claim 12, Godsey teaches of a body jewelry clasp wherein said arms are hinged together as a pivot (arm one, 40 is hinged to arm two, 20 via a hinge, 26 in Fig. 1 of Godsey) that allows the arms to pivot (the movement of arm one, 40 relative to arm two, 20 in Fig. 1 of Godsey) between a first position where said recess is open (Fig. 1 of Godsey) and a second position where said recess is closed (Fig. 3 of Godsey).

As for Claim 14, Re: Claim 11, Godsey teaches of a body jewelry clasp wherein the stop (46) depending from at least one arm (40) can open and close said recess (the movement of 46 opening (Fig. 1) and closing (Fig. 3) the space between 46 and 64).

Conclusion

[6] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited further to show the state of the art with respect to this particular type of apparatus; as well as their extreme relevance to the current application: Moodley, Des. 312,982; Shatz, D491,483; Melone, 3,739,599; Farley, 1,176,210; McCully, Des. 276,952; Cappiello, US 2002/0079110; Ritter, 4,086,786; Langer, 6,289,559.


[7] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is 703-305-4805. The examiner can normally be reached on 7:30 am - 5:00 pm M-Th, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,
David Reese
Examiner
Art Unit 3677


Primary JACK LAVINDER
~~SUPERVISORY~~ PATENT EXAMINER
TECHNOLOGY CENTER 3677